

Suspend the Rules And Pass the Bill, H.R. 2074, with Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

112TH CONGRESS
1ST SESSION

H. R. 2074

To amend title 38, United States Code, to require a comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents that occur at medical facilities of the Department of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

Ms. BUERKLE (for herself and Mr. MILLER of Florida) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to require a comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents that occur at medical facilities of the Department of Veterans Affairs.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veterans Sexual As-
5 sault Prevention and Health Care Enhancement Act”.

1 **SEC. 2. COMPREHENSIVE POLICY ON REPORTING AND**
2 **TRACKING SEXUAL ASSAULT INCIDENTS AND**
3 **OTHER SAFETY INCIDENTS.**

4 (a) POLICY.—Subchapter I of chapter 17 of title 38,
5 United States Code, is amended by adding at the end the
6 following:

7 **“§ 1709. Comprehensive policy on reporting and**
8 **tracking sexual assault incidents and**
9 **other safety incidents**

10 “(a) POLICY REQUIRED.—Not later than March 1,
11 2012, the Secretary of Veterans Affairs shall develop and
12 implement a centralized and comprehensive policy on the
13 reporting and tracking of sexual assault incidents and
14 other safety incidents that occur at each medical facility
15 of the Department, including—

16 “(1) suspected, alleged, attempted, or confirmed
17 cases of sexual assault, regardless of whether such
18 assaults lead to prosecution or conviction;

19 “(2) criminal and purposefully unsafe acts;

20 “(3) alcohol or substance abuse related acts (in-
21 cluding by employees of the Department); and

22 “(4) any kind of event involving alleged or sus-
23 pected abuse of a patient.

24 “(b) SCOPE.—The policy required by subsection (a)
25 shall cover each of the following:

1 “(1) For purposes of reporting and tracking
2 sexual assault incidents and other safety incidents,
3 definitions of the terms—

4 “(A) ‘safety incident’;

5 “(B) ‘sexual assault’; and

6 “(C) ‘sexual assault incident’.

7 “(2) The development and use of specific risk-
8 assessment tools to examine any risks related to sex-
9 ual assault that a veteran may pose while being
10 treated at a medical facility of the Department, in-
11 cluding clear and consistent guidance on the collec-
12 tion of information related to—

13 “(A) the legal history of the veteran; and

14 “(B) the medical record of the veteran.

15 “(3) The mandatory training of employees of
16 the Department on security issues, including aware-
17 ness, preparedness, precautions, and police assist-
18 ance.

19 “(4) The mandatory implementation, use, and
20 regular testing of appropriate physical security pre-
21 cautions and equipment, including surveillance cam-
22 era systems, computer-based panic alarm systems,
23 stationary panic alarms, and electronic portable per-
24 sonal panic alarms.

1 “(5) Clear, consistent, and comprehensive cri-
2 teria and guidance with respect to an employee of
3 the Department communicating and reporting sexual
4 assault incidents and other safety incidents to—

5 “(A) supervisory personnel of the employee
6 at—

7 “(i) a medical facility of the Depart-
8 ment;

9 “(ii) an office of a Veterans Inte-
10 grated Service Network; and

11 “(iii) the central office of the Veterans
12 Health Administration; and

13 “(B) a law enforcement official of the De-
14 partment.

15 “(6) Clear and consistent criteria and guide-
16 lines with respect to an employee of the Department
17 referring and reporting to the Office of Inspector
18 General of the Department sexual assault incidents
19 and other safety incidents that meet the regulatory
20 criminal threshold in accordance with section 1.201
21 and 1.204 of title 38, Code of Federal Regulations.

22 “(7) An accountable oversight system within
23 the Veterans Health Administration that includes—

24 “(A) systematic information sharing of re-
25 ported sexual assault incidents and other safety

1 incidents among officials of the Administration
2 who have programmatic responsibility; and

3 “(B) a centralized reporting, tracking, and
4 monitoring system for such incidents.

5 “(8) Consistent procedures and systems for law
6 enforcement officials of the Department with respect
7 to investigating, tracking, and closing reported sexual
8 assault incidents and other safety incidents.

9 “(9) Clear and consistent guidance for the clinical
10 management of the treatment of sexual assaults
11 that are reported more than 72 hours after the assault.
12

13 “(c) UPDATES TO POLICY.—The Secretary shall re-
14 view and revise the policy required by subsection (a) on
15 a periodic basis as the Secretary considers appropriate and
16 in accordance with best practices.

17 “(d) ANNUAL REPORT.—(1) Not later than 60 days
18 after the date on which the Secretary develops the policy
19 required by subsection (a), and by not later than October
20 1 of each year thereafter, the Secretary shall submit to
21 the Committee on Veterans’ Affairs of the House of Rep-
22 resentatives and the Committee on Veterans’ Affairs of
23 the Senate a report on the implementation of the policy.

24 “(2) The report under paragraph (1) shall include—

1 “(A) the number and type of sexual assault in-
2 cidents and other safety incidents reported by each
3 medical facility of the Department;

4 “(B) a detailed description of the implementa-
5 tion of the policy required by subsection (a), includ-
6 ing any revisions made to such policy from the pre-
7 vious year; and

8 “(C) the effectiveness of such policy on improv-
9 ing the safety and security of the medical facilities
10 of the Department, including the performance meas-
11 ures used to evaluate such effectiveness.

12 “(e) REGULATIONS.—The Secretary shall prescribe
13 regulations to carry out this section.”.

14 (b) CLERICAL AMENDMENT.—The table of sections
15 at the beginning of such chapter is amended by adding
16 after the item relating to section 1708 the following:

 “1709. Comprehensive policy on reporting and tracking sexual assault incidents
 and other safety incidents.”.

17 (c) INTERIM REPORT.—Not later than 30 days after
18 the date of the enactment of this Act, the Secretary of
19 Veterans Affairs shall submit to the Committee on Vet-
20 erans’ Affairs of the House of Representatives and the
21 Committee on Veterans’ Affairs of the Senate a report on
22 the development of the performance measures described
23 in section 1709(d)(2)(C) of title 38, United States Code,
24 as added by subsection (a).

1 **SEC. 3. INCREASED FLEXIBILITY IN ESTABLISHING PAY-**
2 **MENT RATES FOR NURSING HOME CARE PRO-**
3 **VIDED BY STATE HOMES.**

4 (a) IN GENERAL.—

5 (1) CONTRACTS AND AGREEMENTS FOR NURS-
6 ING HOME CARE.—Section 1745(a) of title 38,
7 United States Code, is amended—

8 (A) in paragraph (1), by striking “The
9 Secretary shall pay each State home for nursing
10 home care at the rate determined under para-
11 graph (2)” and inserting “The Secretary shall
12 enter into a contract (or agreement under sec-
13 tion 1720(c)(1) of this title) with each State
14 home for payment by the Secretary for nursing
15 home care provided in the home”; and

16 (B) by striking paragraph (2) and insert-
17 ing the following new paragraph (2):

18 “(2) Payment under each contract (or agreement) be-
19 tween the Secretary and a State home under paragraph
20 (1) shall be based on a methodology, developed by the Sec-
21 retary in consultation with the State home, to adequately
22 reimburse the State home for the care provided by the
23 State home under the contract (or agreement).”.

24 (2) STATE NURSING HOMES.—Section
25 1720(c)(1)(A) of such title is amended—

1 (A) in clause (i), by striking “; and” and
2 inserting a semicolon;

3 (B) in clause (ii), by striking the period at
4 the end and inserting “; and”; and

5 (C) by adding at the end the following new
6 clause:

7 “(iii) a provider of services eligible to enter into
8 a contract pursuant to section 1745(a) of this title
9 who is not otherwise described in clause (i) or (ii).”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to care provided on or after Jan-
12 uary 1, 2012.

13 **SEC. 4. REHABILITATIVE SERVICES FOR VETERANS WITH**
14 **TRAUMATIC BRAIN INJURY.**

15 (a) REHABILITATION PLANS AND SERVICES.—Sec-
16 tion 1710C of title 38, United States Code, is amended—

17 (1) in subsection (a)(1), by inserting before the
18 semicolon the following: “with the goal of maxi-
19 mizing the individual’s independence”;

20 (2) in subsection (b)—

21 (A) in paragraph (1)—

22 (i) by inserting “(and sustaining im-
23 provement in)” after “improving”;

24 (ii) by inserting “behavioral,” after
25 “cognitive”;

1 (B) in paragraph (2), by inserting “reha-
2 bilitative services and” before “rehabilitative
3 components”; and

4 (C) in paragraph (3)—

5 (i) by striking “treatments” the first
6 place it appears and inserting “services”;
7 and

8 (ii) by striking “treatments and” the
9 second place it appears; and

10 (3) by adding at the end the following new sub-
11 section:

12 “(h) REHABILITATIVE SERVICES DEFINED.—For
13 purposes of this section, and sections 1710D and 1710E
14 of this title, the term ‘rehabilitative services’ includes—

15 “(1) rehabilitative services, as defined in section
16 1701 of this title;

17 “(2) treatment and services (which may be of
18 ongoing duration) to sustain, and prevent loss of,
19 functional gains that have been achieved; and

20 “(3) any other rehabilitative services or sup-
21 ports that may contribute to maximizing an individ-
22 ual’s independence.”

23 (b) REHABILITATION SERVICES IN COMPREHENSIVE
24 PROGRAM FOR LONG-TERM REHABILITATION.—Section
25 1710D(a) of title 38, United States Code, is amended—

1 (1) by inserting “and rehabilitative services (as
2 defined in section 1710C of this title)” after “long-
3 term care”; and

4 (2) by striking “treatment”.

5 (c) REHABILITATION SERVICES IN AUTHORITY FOR
6 COOPERATIVE AGREEMENTS FOR USE OF NON-DEPART-
7 MENT FACILITIES FOR REHABILITATION.—Section
8 1710E(a) of title 38, United States Code, is amended by
9 inserting “, including rehabilitative services (as defined in
10 section 1710C of this title),” after “medical services”.

11 (d) TECHNICAL AMENDMENT.—Section
12 1710C(c)(2)(S) of title 38, United States Code, is amend-
13 ed by striking “opthamologist” and inserting “ophthalmol-
14 ogist”.

15 **SEC. 5. USE OF SERVICE DOGS ON PROPERTY OF THE DE-**
16 **PARTMENT OF VETERANS AFFAIRS.**

17 Section 901 of title 38, United States Code, is
18 amended by adding at the end the following new sub-
19 section:

20 “(f) The Secretary may not prohibit the use of service
21 dogs in any facility or on any property of the Department
22 or in any facility or on any property that receives funding
23 from the Secretary.”.

1 **SEC. 6. DEPARTMENT OF VETERANS AFFAIRS PILOT PRO-**
2 **GRAM ON DOG TRAINING THERAPY.**

3 (a) IN GENERAL.—Commencing not later than 120
4 days after the date of the enactment of this Act, the Sec-
5 retary of Veterans Affairs shall implement a three-year
6 pilot program for the purpose of assessing the effective-
7 ness of using dog training activities as a component of
8 integrated post-deployment mental health and post-trau-
9 matic stress disorder rehabilitation programs at Depart-
10 ment of Veterans Affairs medical centers to positively af-
11 fect veterans with post-deployment mental health condi-
12 tions and post-traumatic stress disorder symptoms and,
13 through such activities, to produce specially trained dogs
14 that meet criteria for becoming service dogs for veterans
15 with disabilities.

16 (b) LOCATION OF PILOT PROGRAM.—The pilot pro-
17 gram shall be carried out at one Department of Veterans
18 Affairs medical center selected by the Secretary for such
19 purpose at a location other than in the Department of Vet-
20 erans Affairs Palo Alto health care system in Palo Alto,
21 California. In selecting a medical center for the pilot pro-
22 gram, the Secretary shall—

23 (1) ensure that the medical center selected—

24 (A) has an established mental health reha-
25 bilitation program that includes a clinical focus
26 on rehabilitation treatment of post-deployment

1 mental health conditions and post-traumatic
2 stress disorder; and

3 (B) has a demonstrated capability and ca-
4 pacity to incorporate service dog training activi-
5 ties into the rehabilitation program; and

6 (2) shall review and consider using rec-
7 ommendations published by Assistance Dogs Inter-
8 national, International Guide Dog Federation, or
9 comparably recognized experts in the art and science
10 of basic dog training with regard to space, equip-
11 ments, and methodologies.

12 (c) DESIGN OF PILOT PROGRAM.—In carrying out
13 the pilot program, the Secretary shall—

14 (1) administer the program through the De-
15 partment of Veterans Affairs Patient Care Services
16 Office as a collaborative effort between the Rehabili-
17 tation Office and the Office of Mental Health Serv-
18 ices;

19 (2) ensure that the national pilot program lead
20 of the Patient Care Services Office has sufficient ad-
21 ministrative experience to oversee the pilot program;

22 (3) establish partnerships through memoran-
23 dums of understanding with Assistance Dogs Inter-
24 national organizations, International Guide Dog
25 Federation organizations, academic affiliates, or or-

1 organizations with equivalent credentials with experi-
2 ence in teaching others to train service dogs for the
3 purpose of advising the Department of Veterans Af-
4 fairs regarding the design, development, and imple-
5 mentation of pilot program;

6 (4) ensure that the pilot program site has a
7 service dog training instructor;

8 (5) ensure that dogs selected for use in the pro-
9 gram meet all health clearance, age, and tempera-
10 ment criteria as outlined by Assistance Dogs Inter-
11 national, International Guide Dog Federation, or an
12 organization with equivalent credentials and the
13 Centers for Disease Control and Prevention;

14 (6) consider dogs residing in animal shelters or
15 foster homes for participation in the program if such
16 dogs meet the selection criteria under this sub-
17 section; and

18 (7) ensure that each dog selected for the pro-
19 gram is taught all basic commands and behaviors es-
20 sential to being accepted by an accredited service
21 dog training organization to be partnered with a dis-
22 abled veteran for final individualized service dog
23 training tailored to meet the needs of the veteran.

24 (d) VETERAN PARTICIPATION.—A veteran who is en-
25 rolled in the health care system established under section

1 1705(a) of title 38, United States Code, and is diagnosed
2 with post-traumatic stress disorder or another post-de-
3 ployment mental health condition may volunteer to partici-
4 pate in the pilot program required by subsection (a) of
5 this section and may participate in the program if the Sec-
6 retary determines that adequate program resources are
7 available for such veteran to participate at the pilot pro-
8 gram site.

9 (e) **HIRING PREFERENCE.**—In hiring service dog
10 training instructors for the pilot program required by sub-
11 section (a), the Secretary shall give a preference to vet-
12 erans in accordance with section 2108 and 3309 of title
13 5, United States Code.

14 (f) **COLLECTION OF DATA.**—The Secretary shall col-
15 lect data on the pilot program required by subsection (a)
16 to determine the effectiveness of the program in positively
17 affecting veterans with post-traumatic stress disorder or
18 other post-deployment mental health condition symptoms
19 and the potential for expanding the program to additional
20 Department of Veterans Affairs medical centers. Such
21 data shall be collected and analyzed using valid and reli-
22 able methodologies and instruments.

23 (g) **REPORTS TO CONGRESS.**—

24 (1) **ANNUAL REPORTS.**—Not later than one
25 year after the date of the commencement of the pilot

1 program, and annually thereafter for the duration of
2 the pilot program, the Secretary shall submit to
3 Congress a report on the pilot program. Each such
4 report shall include—

5 (A) the number of veterans participating in
6 the pilot program;

7 (B) a description of the services carried
8 out by the Secretary under the pilot program;
9 and

10 (C) the effects that participating in the
11 pilot program has on veterans with post-trau-
12 matic stress disorder and post-deployment men-
13 tal health conditions.

14 (2) FINAL REPORT.—At the conclusion of pilot
15 program, the Secretary shall submit to Congress a
16 final report that includes recommendations with re-
17 spect to the extension or expansion of the pilot pro-
18 gram.

19 (h) DEFINITION.—For the purposes of this section,
20 the term “service dog training instructor” means an in-
21 structor recognized by an accredited dog organization
22 training program who provides hands-on training in the
23 art and science of service dog training and handling.

1 **SEC. 7. ELIMINATION OF ANNUAL REPORT ON STAFFING**
2 **FOR NURSE POSITIONS.**

3 Section 7451(e) of title 38, United States Code, is
4 amended—

5 (1) by striking paragraph (5); and

6 (2) by redesignating paragraph (6) as para-
7 graph (5).

Amend the title so as to read: “A bill to amend title 38, United States Code, to require a comprehensive policy on reporting and tracking sexual assault incidents and other safety incidents that occur at medical facilities of the Department of Veterans Affairs, to improve rehabilitative services for veterans with traumatic brain injury, and for other purposes.”.